

By: Ellis

S.B. No. 1863

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of metal recycling entities; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 1956.003, Occupations Code, is amended to read as follows:

Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

SECTION 2. Section 1956.003, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f) A person commits an offense if the person owns or operates a metal recycling entity without holding a license or permit issued by the governing body of the county, municipality, or political subdivision of this state that has jurisdiction under this section to issue a permit or license to the entity. An offense under this subsection is a state jail felony.

SECTION 3. Section 1956.032(e), Occupations Code, is amended to read as follows:

(e) The metal recycling entity or the entity's agent for recordkeeping purposes may take a photograph of the motor vehicle of the seller in which the make, model, and license plate number of the motor vehicle are identifiable in lieu of the information required under Subsection (a)(2) [~~(a)(3)~~].

SECTION 4. Section 1956.033, Occupations Code, is amended to read as follows:

1 Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal
2 recycling entity in this state shall make a digital photographic or
3 video record of the seller and the materials involved in each
4 regulated material transaction and keep an accurate electronic
5 record and [~~or~~] an accurate and legible written record of each
6 purchase made in the course of the entity's business from an
7 individual of:

- 8 (1) copper or brass material;
- 9 (2) bronze material;
- 10 (3) aluminum material; or
- 11 (4) regulated metal.

12 (b) The record must be in English and include:

- 13 (1) the place and date of the purchase;
- 14 (2) the name and address of each individual from whom
15 the regulated material is purchased or obtained;
- 16 (3) the identifying number of the seller's personal
17 identification document;
- 18 (4) a clear and legible thumbprint of the seller;
- 19 (5) a description made in accordance with the custom
20 of the trade of the type and quantity of regulated material
21 purchased; and
- 22 (6) [~~(5)~~] the information required by Section
23 1956.032(a)(3).

24 SECTION 5. Section 1956.038, Occupations Code, is amended
25 to read as follows:

26 Sec. 1956.038. PROHIBITED ACTS. A person may not, with the
27 intent to deceive:

1 (1) display to a metal recycling entity a false or
2 invalid personal identification document in connection with the
3 person's attempted sale of regulated material;

4 (2) make a false, material statement or representation
5 to a metal recycling entity in connection with:

6 (A) that person's execution of a written
7 statement required by Section 1956.032(a)(3); or

8 (B) the entity's efforts to obtain the
9 information required under Section 1956.033(b); ~~[or]~~

10 (3) display or provide to a metal recycling entity any
11 information required under Section 1956.032 that the person knows
12 is false or invalid; or

13 (4) display another individual's personal
14 identification document in connection with an attempted sale of
15 regulated material.

16 SECTION 6. Section 1956.040(a), Occupations Code, is
17 amended to read as follows:

18 (a) A person commits an offense if the person knowingly
19 violates Section 1956.038. An offense for a violation of Section
20 1956.038(1), (2), or (3) [~~under this subsection~~] is a Class A
21 misdemeanor unless it is shown on trial of the offense that the
22 person has previously been convicted of a violation of this
23 subchapter, in which event the offense is a state jail felony. An
24 offense for a violation of Section 1956.038(4) is a Class B
25 misdemeanor.

26 SECTION 7. Subchapter A-3, Chapter 1956, Occupations Code,
27 is amended by adding Sections 1956.041 and 1956.042 to read as

1 follows:

2 Sec. 1956.041. PAYMENT REQUIREMENTS; CRIMINAL PENALTY. (a)

3 A metal recycling entity may not make an on-site payment to the
4 seller of an item of regulated material at the time of the regulated
5 material transaction.

6 (b) A metal recycling entity shall pay the seller of an item
7 of regulated material purchased by the entity by mailing a check or
8 money order to a physical address provided by the seller or to the
9 physical address listed on the seller's personal identification
10 document.

11 (c) A metal recycling entity shall, at the time of a
12 regulated material transaction, provide a receipt to the seller of
13 an item of regulated material received or purchased by the entity.

14 The receipt must include:

15 (1) the date, time, and physical address of the
16 transaction;

17 (2) an identifying description and weight of the items
18 of regulated material received or purchased; and

19 (3) the total dollar amount of the transaction.

20 (d) A person commits an offense if the person violates this
21 section. An offense under this section is a Class B misdemeanor.

22 Sec. 1956.042. RECORDS AND COMPLIANCE; CRIMINAL PENALTY.

23 (a) A person commits an offense if the person owns or operates a
24 metal recycling entity and the person:

25 (1) fails to keep a book or record required under this
26 chapter or rules adopted under this chapter;

27 (2) refuses, on demand of a peace officer of this

1 state, to exhibit a book, record, business record, receipt, or
2 transaction record required under this chapter or rules adopted
3 under this chapter;

4 (3) knowingly destroys a book or record required under
5 this chapter or rules adopted under this chapter before the second
6 anniversary of the date of the final entry of any regulated material
7 transaction; or

8 (4) fails to comply with this chapter or rules adopted
9 under this chapter.

10 (b) An offense under this section is a Class B misdemeanor.

11 SECTION 8. Subchapter C, Chapter 1956, Occupations Code, is
12 amended by adding Section 1956.106 to read as follows:

13 Sec. 1956.106. PURCHASE OF AIR CONDITIONING COMPONENTS.

14 (a) A person may not sell or otherwise transfer to a metal
15 recycling entity and a metal recycling entity may not accept or
16 purchase from any person an item of regulated material that is an
17 air conditioning component, unless the person displays to the
18 entity the person's air conditioning and refrigeration license or
19 certificate of registration issued under Chapter 1302.

20 (b) A metal recycling entity shall make a photocopy of each
21 seller's air conditioning and refrigeration license or certificate
22 of registration issued under Chapter 1302 and keep the photocopy
23 with the entity's other records required under Section 1956.033 and
24 preserve the photocopy as required under Section 1956.034.

25 (c) A person commits an offense if the person violates this
26 section. An offense under this subsection is a Class A misdemeanor.

27 SECTION 9. Section 31.03(e), Penal Code, is amended to read

1 as follows:

2 (e) Except as provided by Subsection (f), an offense under
3 this section is:

4 (1) a Class C misdemeanor if the value of the property
5 stolen is less than:

6 (A) \$50; or

7 (B) \$20 and the defendant obtained the property
8 by issuing or passing a check or similar sight order in a manner
9 described by Section 31.06;

10 (2) a Class B misdemeanor if:

11 (A) the value of the property stolen is:

12 (i) \$50 or more but less than \$500; or

13 (ii) \$20 or more but less than \$500 and the
14 defendant obtained the property by issuing or passing a check or
15 similar sight order in a manner described by Section 31.06; or

16 (B) the value of the property stolen is less
17 than:

18 (i) \$50 and the defendant has previously
19 been convicted of any grade of theft; or

20 (ii) \$20, the defendant has previously been
21 convicted of any grade of theft, and the defendant obtained the
22 property by issuing or passing a check or similar sight order in a
23 manner described by Section 31.06;

24 (3) a Class A misdemeanor if the value of the property
25 stolen is \$500 or more but less than \$1,500;

26 (4) a state jail felony if:

27 (A) the value of the property stolen is \$1,500 or

1 more but less than \$20,000, or the property is less than 10 head of
2 cattle, horses, or exotic livestock or exotic fowl as defined by
3 Section 142.001, Agriculture Code, or any part thereof under the
4 value of \$20,000, or less than 100 head of sheep, swine, or goats or
5 any part thereof under the value of \$20,000;

6 (B) regardless of value, the property is stolen
7 from the person of another or from a human corpse or grave;

8 (C) the property stolen is a firearm, as defined
9 by Section 46.01;

10 (D) the value of the property stolen is less than
11 \$1,500 and the defendant has been previously convicted two or more
12 times of any grade of theft;

13 (E) the property stolen is an official ballot or
14 official carrier envelope for an election; or

15 (F) the value of the property stolen is less than
16 \$20,000 and the property stolen is an item of regulated material as
17 defined by Section 1956.001, Occupations Code [~~insulated or~~
18 ~~noninsulated wire or cable that consists of at least 50 percent:~~

19 [(i) ~~aluminum,~~

20 [(ii) ~~bronze, or~~

21 [(iii) ~~copper~~];

22 (5) a felony of the third degree if the value of the
23 property stolen is \$20,000 or more but less than \$100,000, or the
24 property is:

25 (A) 10 or more head of cattle, horses, or exotic
26 livestock or exotic fowl as defined by Section 142.001, Agriculture
27 Code, stolen during a single transaction and having an aggregate

1 value of less than \$100,000; or

2 (B) 100 or more head of sheep, swine, or goats
3 stolen during a single transaction and having an aggregate value of
4 less than \$100,000;

5 (6) a felony of the second degree if the value of the
6 property stolen is \$100,000 or more but less than \$200,000; or

7 (7) a felony of the first degree if the value of the
8 property stolen is \$200,000 or more.

9 SECTION 10. (a) The change in law made by this Act applies
10 only to an offense committed on or after the effective date of this
11 Act. For purposes of this section, an offense is committed before
12 the effective date of this Act if any element of the offense occurs
13 before that date.

14 (b) An offense committed before the effective date of this
15 Act is covered by the law in effect when the offense was committed,
16 and the former law is continued in effect for that purpose.

17 SECTION 11. This Act takes effect September 1, 2009.